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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,310	04/27/2001	Henry A. Brandtjen JR.	12275.13USC1	1970

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EXAMINER
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SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/844,310	BRANDTJEN ET AL.
	Examiner	Art Unit
	Shelley Self	3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 18 December 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) 9-15 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 April 2001 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the invention of Group I (clms. 1-8) in Paper No. 5 is acknowledged. The restriction is on the ground(s) that the device has an ability to be used to practice another materially different process, communiting of rocks whereby establishing contact between opposing platens is not necessary. The traversal is on the ground(s) that "approximate contact" of the platen presses would result during the communiting of rocks. This is not found persuasive because the method claim 9 clearly states that an impression force is established via the contact of first and second platens and not the "approximate" contact of such platens.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "142" has been used to designate both arms (pg. 10, lines 15, 16, 17) and gliders (pgs 6, 7, 8). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In general the claims fail to positively recite a critical interrelationship between the elements. For example, with regard to claim 1 it is unclear as to whether or not the drive mechanism and the driven biasing member are linked to the same or different platens. The claim as written is readable on more than one embodiment, however only one embodiment is disclosed.

With regard to claim 6, there is no antecedent basis for "*the piston*".

With regard to claim 7, the claims defines the backshaft being "*connected to the at least one platen*" and the offset bearing journal of the backshaft being connected to the glider. According to the drawing(s) the backshaft (124) appears to be connected horizontally to and between the glider(s) (114, 142) the drawing(s) do not support connection of the backshaft to at least one platen.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Myers. With regard to claims 1-5, as best as can be understood, Myers discloses a platen press (figs. 1-7) device comprising: first and second platens (18, 24), a drive mechanism

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(70, 80), driven biasing member (40,42,44,30,32,36,38; col. 3, lines 4-19) wherein the spring-driven biasing member moves with respect to an arm (28), a tensioner (62) comprising a stud and nut (fig. 7).

With regard to claim 6, as best as can be understood, Myers discloses a glider (64 and the linkages of the arm, 28 are a "glider") engaging the arm (30, 32).

With regard to claim 7, as best as can be understood, Myers discloses the claimed invention. Myers does however disclose shafts, spacers extending between the lever arm (28) and "glider" such that at least one platen position is variable about a pivot/rotatable point (26) to raise and lower at least one platen.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8, as best as can be understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (5167, 750) Hix (5, 147, 496). Myers does not disclose a driven biasing member to be a hydraulic cylinder. Hix teaches in a press machine the use of a hydraulic cylinder (90) as a driven biasing member of a platen press. Hix teaches that this construction can be used to replace compression or spring driven biasing members (col. 4, lines 59-68 to col. 5, line 1). Because the references are from a closely related art, it would have been obvious to one having ordinary skill in the art at the time of the invention to replace Myers' spring-driven

biasing member with a hydraulic cylinder as a driven biasing member as taught by Hix so as to bias or position a platen of a platen press.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Myers (Des340, 730), Kussmaul (3,979,248), Peterson (3,450, 031), Hix (5, 147, 496) Myers (5, 474, 633), Weidhass, Sr. (5997453) and Krueger (2,644,151).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf  
January 22, 2003



ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
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